

The Honorable J. Kelley Arnold
Friday, April 20, 2007
Without Oral Argument

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KELLY D. MYERS-CLARK, Personal
Representative of the ESTATE OF
CHRISTOPHER M. CLARK,

Plaintiff,

v.

FRAHLER ELECTRIC COMPANY, a
Foreign Corporation; and YORKE & CURTIS,
INC., a Foreign Corporation,

Defendants.

NO. 3:05-cv-05553-JKA

PETITION FOR APPROVAL OF
SETTLEMENT OF CASE ON BEHALF
OF MINOR

COMES NOW the Petitioner, Keith L. Kessler of Stritmatter Kessler Whelan Coluccio, co-counsel for the Plaintiff in this matter, and petitions this Court for approval of a settlement agreement on behalf of the minor beneficiary of the estate of the decedent in this matter, and for an order distributing the settlement proceeds on behalf of the minor beneficiary in accordance with the settlement agreement.

Petitioner provides the following history of this matter and represents as follows:

1. The minor, K.C., was born on November 14, 1996, and remains a minor. Her father, Christopher M. Clark, died on November 28, 2005 as a result of an electrocution.

2. The two beneficiaries of the Estate of Christopher M. Clark are Kelly Clark, the Plaintiff herein, who is the surviving spouse of Mr. Clark and the mother of K.C., and K.C., the only child of Christopher Clark.
3. Kelly Clark was appointed Personal Representative of the Estate of Christopher M. Clark by Court Order on March 9, 2005, in Clark County Superior Court Cause No. 05-4-00191-8.
4. Suit was brought in this matter to recover for the wrongful death of Christopher M. Clark. Substantial discovery was undertaken as to all liability claims and defenses.
5. On February 1, 2007, the parties in this case entered into a settlement agreement providing for payment of \$900,000 by the Defendants to the Plaintiff, said settlement proceeds to be paid to the Estate and distributed to the beneficiaries upon this Court's approval of the settlement and distribution plan as it pertains to the minor child.
6. On March 14, 2007, this Court appointed attorney Jack Welch to serve as Settlement Guardian ad Litem on behalf of the minor child, charged with the duty to review and evaluate the settlement, taking into account the interests of the minor child.
7. On April 4, 2007, Mr. Welch issued the Report of Settlement Guardian ad Litem, thoroughly reviewing the facts of this case, as well as the claims and defenses as to liability and damages issues. Following a full evaluation of all aspects of this case, as well as the needs of the minor child and the terms of the structured settlement on her behalf, the Settlement Guardian ad Litem endorsed the \$900,000 mediated settlement as a successful outcome, and recommended that the Court approve the settlement on behalf of the minor. The Report of Settlement Guardian ad Litem accompanies this Petition for Approval of Settlement of Case on Behalf of Minor. The proposed terms of the settlement with regard to the minor, K.C., are as follows:
 - a. The sum of Fifteen Thousand Dollars (\$15,000) to be paid annually on or about the fourteenth (14th) day of November each year beginning on or about November 14,

1 2014 (K.C.'s 18th birthday), guaranteed to be paid for a period of Four (4) years with the
2 last guaranteed to be made on or about November 14, 2017.

3 b. A lump sum payment payable to K.C. in the amount of Seventy Three Thousand
4 Two Hundred Dollars (\$73,200) on or about November 14, 2021 (K.C.'s 25th birthday).


5 c. Should K.C. die before November 14, 2021, then any remaining guaranteed
6 periodic payments as set forth in paragraphs 7a and 7b above shall instead be paid as they
7 become due to the estate of K.C. with the last guaranteed periodic payment to be made on
8 or about November 14, 2021.

8 8. Petitioner further requests that the Court approve the disbursement of costs, fees,
9 expenses and payment to the Washington State Department of Labor and Industries as set forth
10 in the attached Report of the Settlement Guardian ad Litem.

11 The Petitioner concurs in the recommendation to this Court that the settlement on behalf
12 of the minor child be approved by this Court as being in the best interests of the minor child.

13 WHEREFORE, Petitioner asks that this Court enter an order approving the settlement
14 agreement on behalf of the minor child in this matter.

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16 DATED: April 4, 2007.

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20 KEITH L. KESSLER, WSBA #4720
21 Of Stritmatter Kessler Whelan Coluccio
22 Petitioner/Co-counsel for Plaintiff
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